

FORM TO BE USED BY A PRISONER IN
FILING A CIVIL RIGHTS COMPLAINT

RECEIVED

IN THE UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF OHIO

MAY 03 2019

RICHARD W. NAGEL, CLERK OF COURT
COLUMBUS, OHIO

Kyle Oesch, Plaintiff

(Enter above the full name of the plaintiff in this action)

VS.

Ohio Department of Corrections.

Belmont Correctional Institution

(Enter above the full name of the defendant(s) in this action)

CIVIL CASE NO. 2:19CV1758

Judge Watson

JUDGE MAGISTRATE JUDGE VASCURA

COMPLAINT

I. Previous Lawsuits

- A. Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action or otherwise relating to your imprisonment? YES ☐ NO ☒
- B. If your answer to A is yes, describe the lawsuit in the space below, (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same outline).

1. Parties to this previous lawsuit

Plaintiffs _____

Defendants _____

2. Court (if federal court, name the district; if state court, name the county)

3. Docket Number _____

4. Name of judge to whom case was assigned _____

2. What was the result? _____

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III. Parties

(In item A below, place your name in the first blank and place your present address in the second blank. Do the same for additional plaintiffs, if any).

A. Name of the Plaintiff Kyle Oesch #682-684

Address Belmont Correctional Institution, P.O. Box 540, B.C.I.-
St. Clairsville, Ohio 43950

(In item B below, place the full name of the defendant in the first blank, his or her official position in the second blank, and his or her place of employment in the third blank. Use item C for the names, positions and places of employment of any additional defendants).

B. Defendant Ohio Department of Corrections (O.D.R.C.) is employed as

Medicial Director;
Medical Aministration Ad at Above address: Belmont Corr Inst.
P.O. Box 540 B.C.I. St. Clairsville, Ohio 43950.

C. Additional Defendants :

As this Honorable Court deems whom may be additional Defendants.

IV. Statement of Claim

(State here as briefly as possible the facts of your case. Describe how each defendant is involved. Include also the names of other persons involved, dates and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separated paragraph. Use as much space as you need. (Attach extra sheet(s) if necessary).

1) Plaintiff claims that the above named Defendants has clearly
denied him an opportunity to be provied with a written summary
by a medicial doctor and or director, concerning the swelling
that which appeared on the X-Ray when taken on plaintiff's ne-
ck, by the Belmont Corr Medical Department. Plaintiff claims th-
at he does not know what is wrong with him. But, the same and
very abnormal "CRUNCY" felling such as a lump in his back, chest
and sides appears to have moved to close to his heart. Plaintiff
claims that the pain is not just a severe type of pain causing
discomfort, but it is jeopardizing his life. EXHIBIT: (A)Pg.(1).

2) Plaintiff ask to be provided with a MRI to ither prove or
disprove his claims by providing a medical administrior to
previed further test results, based on what he has been asserting
as true. He simply request that he be sent to an outside hospital
to obtain Biopsy on the lump on his back to asses if his condition

Cond't

Ref# BECI0518000136	Housing:C50135A	Date Created:05/07/2018
ID#: A682684	Name:OESCH,KYLE	
Form:Appeal	Subject:Health Care	Description:Health Care
Urgent:No	Time left:n/a	Status:Closed

Communications / Case Actions

5/7/2018 8:51:17 AM : (a682684) wrote
Form has been submitted

5/7/2018 8:51:17 AM : (a682684) wrote

This is in correlation with Informal Complaint/Grievance reference # beci0318000546. Be.C.I. medical personel are making a grave mistake by not believing me about my medical concerns. I'm not saying that medical has not tried to help me figure out whats wrong with me because they have. The problem is that nothing showed on the ct scan of my neck or bloodwork. I have been diognosed with a psychosematic condition and because of that I have no credability for my own health. I want to know because nothing showed on the ct scan or bloodwork. Does that completely rule out the possibility that there could be something seriously wrong with me? Because there is! I don't know whats wrong with me either but what I do know is the swelling that showed on the xray in my neck is caused from the same very abnormal crunchy feeling as the lump in my back, chest and sides and has become entirely to close to my heart. This isn't just a severe discomfort. Whatever it is it is jeopardizing my life. I would obviously need an MRI to prove/disprove the extent of my claims or a preeminent superior in admin. to take into consideration the fact that what I'm stating might be true and simply send me to an outside hospital to get a biopsy on the lump in my back to at least diognose and see if whats wrong with me can even be treated. The lump is the key to whats wrong with me. It is where the crunchy feeling started.

5/10/2018 12:42:22 PM : (Joseph Murphy) wrote

This has been addressed in your Informal Complaint/Grievance reference # beci0318000546

5/10/2018 12:42:41 PM : (Joseph Murphy) wrote

Closed inmate form

5/16/2018 7:58:41 PM : (a682684) wrote

Escalated to Grievance

5/16/2018 7:58:41 PM : (a682684) wrote

not only has the stuff spread throughout my body and become entirely to close to my heart i can feel the lump in my back has gotten larger and i can feel it pressing on my spine and its beginning to hurt. also no one has returned my mothers phone calls or has anyone attempted to call my family to get a second opinion on my mental state before dignosing me with a mental illness. someone needs to call my family and explain to them what i am claiming. Mother Amy Oesch3302099335 grandmother Diana stead 3304561465 perferably with me present with me on speaker phone. i dont know why it cant be seen on a ct scan of my neck all i am asking is to please at least send me to get another ct scan but this time of my chest and back and then if the lump or nothing in my chest can be seen then further action should be taken ruling on my mental health and or getting me help medically because there is absolutley something very wrong physically not neurologically taking place inside my body same feeling as the lump please asap i feel its going to spread and start affecting my heart trying to tell beci medical personell that this stuff is jepordizing life but no body is listening

5/18/2018 9:21:52 AM : (Patrick Haley) wrote

After reviewing your new grievance it was determined that this complaint has been addressed in your Informal Complaint/Grievance reference # BECI-03-18-000546. Plus, you have not sent a health care request, kite, or a telephone request since 2-20-18 for your medical complaint. Furthermore, I believe you filed another Grievance because you allowed the Informal Complaint/Grievance reference # BECI-03-18-000546 to elapse over the 14-day time limit. See Informal Complaint/Grievance reference # BECI-03-18-000546 responses:

(Informal Complaint) Joseph Murphy wrote: 3/23/2018 10:10 AM

I have reviewed your electronic records and have found that you have received multiple blood tests, x-rays, and a CT scan. These tests were resulted by a 3rd party and were within normal limits. You will be placed on NSC for this complaint.

(Grievance) Patrick Haley wrote: 4/9/2018 2:50 PM

The Office of the Inspector of the Institutional Services is in receipt of Notification of Grievance Case #: BECI-03-18-000546 submitted by inmate Oesch #A-682684

In your grievance you state that he received insufficient care for his chronic discomfort, Crepitus within the cervical spine and chest, lump in neck.

To investigate this matter I have reviewed AR 5120-9-31 Inmate grievance Procedure and Medical Services policy 68-MED-01. I have read the grievance and ICR you filed. During my investigation into your complaint, I met with you and Mr. Knox- QIC and reviewed your medical file.

Ref# BECI0518000136	Housing:C50135A	Date Created:05/07/2018
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.CC: Chronic discomfort, Crepitus within the cervical spine and chest, lump in neck After review of the submitted ICR, NOG and medical records a meeting was held with Mr. Oesch A682-684 to discuss the past treatment he has received regarding the concerns of the tissue deposit in his neck, chronic discomfort and crepitus with the cervical spine. Over the past 2 years, beginning approximately November 2016, Mr. Oesch has described numerous signs and symptoms that have manifested themselves in different ways. Over this time period Mr. Oesch has been evaluated multiple times by different Advanced Level providers and nursing staff. This has led to numerous blood test, imaging (X-ray, US and CT of cervical spine) and at one-time admission to the infirmary for 24-hour observation. All these evaluations have led to normal results. These results were reviewed with Mr. Oesch. Mr. Oesch has been evaluated and treated appropriately per the policy of 68-MED-01 and protocols A-2.35, B-1 and B-3. At the conclusion of the meeting, Mr. Oesch was urged to follow up with medical, via HSR and calling medical, if and when these symptoms return for further evaluation if needed.

You have been seen by the medical department in accordance with Medical Services policy 68-MED-01. You have been evaluated and treated by qualified medical staff in a timely manner. The staff treating you has performed their duties within the guidelines of their licensure and discretion. Accordingly, this grievance is DENIED, no violation of rule, policy or law.

I encourage you to maintain contact with medical to address any additional issues you may have. This office will take no further action on this matter at this time.

5/18/2018 9:22:25 AM : (Patrick Haley) wrote
Closed inmate form - Disposition: Denied

6/1/2018 10:14:39 AM : (a682684) wrote
Escalated to Appeal

6/1/2018 10:14:39 AM : (a682684) wrote
I have not put in another medical kite because I honestly feel like I have been mistreated by all three doctors. I have either been told I'm crazy or theres nothing else they can do for me and I was never passed since the last I/C when I was told I would be put on NSC for that complaint. This puts me in a very stressful uneasy situation as if no one genuinely cares at the possibility that there could be something seriously wrong with me. I don't think medical personell acknowledges how bad what they call crepitus really is. Especially when I wake up I'm all stiff inside my neck, back and chest. Not in my bones. When I stretch it doesn't just crackle or pop, it crunches. This stuff is really messed up and unrelentless. The lump in my back has gotten larger. Feels like its starting to surround my spine and it hurts now. This is where all the stiff crackling crunchy feeling started which has led me to believe that the contents of the lump is the culprit to whats wreaking havoc inside of my body. I'm surprised it isn't affecting my heart yet because it is very close. I'm asking whoever is in control to please look into getting me further testing so I can hopefully get a treatment so I don't have to suffer any longer. Someone please listen to me.

6/20/2018 1:18:22 PM : (karen stanforth) wrote
The Office of the Chief Inspector is in receipt of your Appeal; a thorough review of your appeal has been completed that included the application of the following factors:

- Procedural requirements
- Proper investigation of your grievance
- Applicable policies, procedures, administrative rules, directives and ODRC operating manuals
- Documentation and related evidence
- Information presented in your appeal

Based on the aforementioned review, the decision rendered by the Inspector is hereby: **AFFIRMED**
Karen Stanforth, Assistant Chief Inspector, Medical

6/20/2018 1:19:25 PM : (karen stanforth) wrote
Closed inmate form - Disposition: Affirmed with comments

Admin Log

5/7/2018 1:02:04 PM : (angela terek) wrote
Form was viewed by angela terek and the status was changed to Pending.

5/10/2018 12:42:23 PM : (Joseph Murphy) wrote
Responded to inmate

5/17/2018 7:52:48 AM : (Patrick Haley) wrote
Form was viewed by Patrick Haley and the status was changed to Pending.

Ref# BECI0518000136	Housing: C50135A	Date Created: 05/07/2018
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5/18/2018 9:21:52 AM : (Patrick Haley) wrote
Responded to inmate

6/4/2018 9:59:02 AM : (Patrick Haley) wrote
Form was viewed by Patrick Haley and the status was changed to Pending.

6/20/2018 1:18:22 PM : (karen stanforth) wrote
Responded to inmate

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V. Relief

(State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes).

- 1) Petitioner states that ~~he~~ respectfully request that this Honorable Court grant the dollar demand amount, in the attached Civil Cover Sheet of 2.5 Million and or amount the court deems fit, just and proper.
- 2) That this Honorable Court, order defendants to pay all medical fees and cost and for any future medical expenses and or cost incurred relating to this litigation.
- 3) That this Honorable Court order defendants to pay all attorney cost and fees, incurred for the cost of this litigation.
- 4) That this Honorable Court declare that defendants violated plaintiff's Civil Rights, dut to deliberate medical indifference of Plaintiff's medical needs.
- 5) That this Honorable Court, grant any and all additional relief as this Honorable Court deems fit.

Signed this 4 day of April, 18 2019.

I declare under penalty of perjury that the foregoing is true and correct.

April 4, 2019
(Date)

[Signature]
(Signature of Plaintiff)